

Minutes of the Planning Commission meeting held on Thursday, September 3, 2009, at 6:30 p.m. in the Murray City Municipal Council Chambers, 5025 South State Street, Murray, Utah.

Present: Jim Harland, Vice-Chair
Tim Taylor
Kurtis Aoki
Sheri Van Bibber
Tim Tingey, Community & Economic Development Director
Ray Christensen, Senior Planner
Citizens

Excused: Jeff Evans, Chair
Ray Black
Karen Daniels

The Staff Review meeting was held from 6:00 to 6:30 p.m. The Planning Commission members briefly reviewed the applications on the agenda. An audio recording of this is available at the Murray City Community and Economic Development Department.

Mr. Harland opened the meeting and welcomed those present.

APPROVAL OF MINUTES

Mr. Aoki made a motion to approve the minutes from August 20, 2009. Seconded by Ms. Van Bibber.

A voice vote was made. The minutes were approved unanimously, 4-0.

CONFLICT OF INTEREST

There were no conflicts of interest noted regarding this agenda.

APPROVAL OF FINDINGS OF FACT

Mr. Taylor made a motion to approve the Findings of Fact for the Winchester Townhomes Amendment, and for the zone change application submitted by Norma J. Ramoselli. Seconded by Ms. Van Bibber.

A voice vote was made. The Findings of Fact was approved unanimously, 4-0.

MS. JOY'S PRESCHOOL – 367 E. McMillan Lane, Project 09-66

Joylynn Brown was the applicant present to represent this request. Ray Christensen reviewed the location and request for a Conditional Use Permit for a preschool. The preschool will be located in an existing dwelling, and the property is located in the R-1-8 residential zone. This zone allows for establishment of a preschool education use subject to Conditional Use Permit approval. The proposal is to have 6 – 8 children at the preschool per session. Hours will be on Monday, Wednesday and Friday from 9:00 a.m. to 11:30 a.m. and the dates will be from September 4, 2009 to May 28, 2010. Mr. Christensen stated that the applicant will have to meet all building and fire codes and

complete all licensing requirements for Murray City and any applicable State licensing. Staff is recommending approval.

Joylynn Brown, 367 East McMillan Lane, confirmed that she has received a copy of the staff report. Ms. Brown confirmed that she is able to meet the recommended conditions. Ms. Brown stated that she is retaining her teaching position with Jordan School District for 2 years, and that the purpose of the preschool is to teach her own three year old until she is ready for kindergarten. Ms. Brown stated that she anticipates returning to teaching full time in the future. Ms. Brown stated that she works part time as a teacher on Tuesday, Thursday and every other Friday, so her preschool will only be operating on Monday and Wednesday from 9:00 to 11:30 a.m.

Mr. Harland stated that letters have been submitted by Ms. Brown's neighbors. Carrie Page has provided a letter of support, and Sharon Kirk has sent a letter of concern. Ms. Brown stated that she has received copies of those letters.

Mark Golder, 5765 McMillan Circle, stated that he is a neighbor of Joylynn Brown. Mr. Golder has written a letter, which he read to the Commission. Mr. Golder has lived at this address for 46 years and is a retired correctional officer. Mr. Golder stated that he has raised a family of seven, and understands the need for childhood education and tolerance in the community. Mr. Golder considers himself a friend of Ms. Brown. He stated this permit is not for a daycare. Mr. Golder stated that Ms. Brown comes from a loving and strict family, and her father was a judge in both Midvale and South Jordan for many years. Ms. Brown is a single parent and the mother of a three year old girl and a sixteen year old boy. Mr. Golder stated that Ms. Brown's children are very bright and accomplished and that she is a good mother. Mr. Golder is supportive of Ms. Brown's plan to have a preschool, and stated that she is a good neighbor. Mr. Golder stated that preschool is very important for basic learning and also for learning manners and becoming a good citizen. Mr. Golder stated that he has a diverse neighborhood.

Nathan Page, 5758 McMillan Circle, stated that he has also sent an e-mail to Mr. Christensen expressing that the Page's are in favor of having the preschool. Mr. Page appreciates the staff ensuring that all permits and licensing are in place. Mr. Page stated that he would like the opportunity of placing his children in a preschool that is not commercially run.

John Richards, 361 McMillan Lane, stated that this application shouldn't be a very big deal because it only involves five hours per week. Mr. Richards' wife taught school for over 20 years, and stated that school teachers believe that children who have participated in preschool adjust more rapidly to traditional school.

Jim Harland reviewed the letter from a neighbor, Sharon Kirk. The concerns she wrote about include the living room not being big enough for eight children, that there is some remodeling taking place in the home, that there are some other daycare preschool facilities two houses away, and she is worried about speeding in the neighborhood. Ms. Kirk also stated that the applicant has not taken care of her property as there are weeds in the yard, a dead Christmas tree in the rose bushes, and broken glass.

Ms. Brown thanked the Commission for allowing her an opportunity to address Ms. Kirk's concerns. Ms. Brown stated that a general contractor lives in her circle, and she consulted him about turning her garage into a bedroom. The contractor stated that she didn't need a permit, but Ms. Brown stated that if she actually does need a permit she will comply with obtaining one. Ms. Brown stated that there used to be a wall between the kitchen and living room, but that wall has been removed and the area is now more open and spacious. When Ms. Brown purchased the home, the cabinets were peeling off and wires were protruding. It is Ms. Brown's opinion that the home is much nicer and safer now. In regards to the dead Christmas tree, Ms. Brown stated that she worked for a landscape company at one time and it was recommended that pine needles should be sprinkled around rose beds to keep the weeds down, which is why she put her pine tree in the roses. The tree is now gone, and Ms. Brown stated that she doesn't think anyone else has concerns about the upkeep of her yard. Ms. Brown stated that when she had her baby three years ago the baby had some health problems and required continuous care. She didn't have time to keep up her yard during that time, but believes it's in good shape now. As for vehicles speeding on the road, Ms. Brown stated that she hasn't noticed that happening very much and she probably couldn't do much about it. She stated that the children would never be in the yard unattended. Mr. Aoki stated that the speeding issue is not Ms. Brown's responsibility. Ms. Brown stated she has visited numerous home preschools, and that the teachers will normally go outside, greet the parents, and then walk the children back into the home. Ms. Brown plans to follow this protocol. Ms. Brown stated that she isn't sure what Ms. Kirk is referring to when she mentions fire hazards. Ms. Van Bibber stated that as part of the conditions, a fire inspection will have to be completed. Ms. Brown stated that parking in front of Ms. Kirk's home will not be an issue because parents will only drop off their children, not park and stay. Also, Mr. Richards has offered the use of the front of his home for parking. Ms. Brown stated that it was not her intent to have a home business initially, and she does not intend to quit her teaching job with Jordan School District. Ms. Brown does not plan to expand her preschool by adding more hours or students. Ms. Brown stated that there are not other daycares or preschools down the road as stated in Ms. Kirk's letter.

Mr. Harland asked if a building permit is required for a garage to be turned into a bedroom. Tim Tingey stated that as part of the requirements the Murray Building Department will make determinations regarding codes and permits.

John Richards, 361 McMillan Lane, stated that at the time this home was built, it was constructed with cinder block and brick. Mr. Richards said that no home is completely fireproof, but that this construction method is more fireproof than many others.

Charlene Richards, 361 McMillan Lane, stated that the neighbors in opposition to this preschool won't associate with anyone else in the neighborhood. Ms. Richards stated that these particular neighbors have their own lifestyle and nobody bothers them about the way they live. Ms. Richards stated that she doesn't understand why they have been so cruel to Joylynn, but that they have always been difficult to get along with and are unpleasant people.

Jim Harland closed the public comment portion of this agenda item.

Tim Taylor made a motion to grant a Conditional Use Permit for Ms. Joy's Preschool, located at 367 East McMillan Lane, based on the findings that the R-1-8 zone allows for this use and based on conditions:

1. The project shall meet all applicable building code standards including obtaining permits.
2. The project shall meet all current fire codes.
3. Meet all Murray City and Utah State regulations and licensing requirements.

Seconded by Sheri Van Bibber.

Call vote recorded by Ray Christensen.

A Mr. Taylor
A Mr. Harland
A Mr. Aoki
A Ms. Van Bibber

Motion passed, 4-0.

Ms. Van Bibber thanked the community for coming to the meeting and expressing their opinions on this item.

NEW CONCEPT FURNITURE – 6061 S. State Street, Project 09-68

There was not an applicant present to represent this request. Ray Christensen reviewed the location and request for a Conditional Use Permit for a temporary storage container. The property is located within the C-D-C zone, which does allow temporary containers for 6 months with a Conditional Use Permit. The temporary storage container will be located in the southeast corner of the parking lot behind the building. There is another business on the north side of the property called Nickelmania. Mr. Christensen stated that the existing building is legal non-conforming, and the storage container is already in place. It is anticipated that the container will be moved by March 3, 2010. There is a dumpster on site that will need to be enclosed in order to meet ordinance standards. Staff is recommending approval.

Ms. Van Bibber asked Mr. Tingey about the landscaping issues being legal non-conforming as indicated in the staff report. Mr. Tingey stated that if there are no changes to the building, such as remodeling or new construction, then major upgrades to the site are not warranted. Mr. Tingey stated that the Planning Commission may add that as a condition if they'd like, but staff would not require it. Ms. Van Bibber stated that in the past the landscaping would have to be brought up to current requirements. Mr. Harland stated that this situation doesn't involve any major construction. Mr. Christensen stated that the ordinances have specific criteria that must be met, and since this is only going to be a temporary use, significant upgrades to the property are not warranted. Mr. Christensen stated that the main portion of the landscaping that isn't up to code is on the west State Street frontage.

Mr. Harland stated that there are no members of the public present to make a comment.

Ms. Van Bibber made a motion to approve a Conditional Use Permit for a temporary storage container located at 6061 South State Street, subject to conditions:

1. The temporary storage container shall be removed off the property by March 3, 2010.
2. The proposed storage container use shall meet all applicable building and fire code standards.
3. The trash container shall be screened as required by Section 17.76.170.

Seconded by Mr. Aoki.

Call vote recorded by Ray Christensen.

A Mr. Taylor
A Mr. Harland
A Mr. Aoki
A Ms. Van Bibber

Motion passed, 4-0.

ORDINANCE TEXT AMENDMENT – Flood Damage Prevention, Project #09-70

Tim Tingey explained that there have been some changes required by the Federal Management Agency (FEMA) and that the Murray City ordinance must be updated in order to meet these requirements. The wording has been approved by FEMA, and the State of Utah has reviewed the proposed changes. The modification contains some new terminology, changes to the existing ordinance, and references to update the Flood Insurance Rate Maps.

Scott Stanger, City Engineer, stated that the changes recommended by FEMA contain a lot more definitions than were contained in the previous ordinance. There are also some new flood maps that need to be adopted by September 25, 2009 in order to avoid complications for people seeking federal loans for flood insurance. Mr. Stanger stated that this amendment needs to be approved by the Planning Commission before being presented to the City Council.

Jim Harland stated that this item requires a public hearing and opened the meeting for public input. There were no members of the public present to make a comment, so the public hearing portion was closed.

Tim Taylor made a motion to forward a recommendation of approval to the City Council for the Flood Damage Prevention Ordinance Text Amendment.

Seconded by Sheri Van Bibber.

Call vote recorded by Ray Christensen.

A Mr. Taylor
A Mr. Harland
A Mr. Aoki
A Ms. Van Bibber

Motion passed, 4-0.

OTHER BUSINESS/DISCUSSION ITEM

Tim Tingey stated that an open house was held for the new mixed use zoning boundary and proposed zoning ordinance. Mr. Tingey explained that there has been a change to the eastern boundary, which has been modified by moving west to the TRAX line.

Ray Christensen stated that the most recent mixed use open house was held on August 25, 2009, and some Planning Commission members were in attendance. After receiving feedback from the open house held in February 2009 and meetings with the Planning Commission and City Council, some revisions have been made to the proposed mixed-use area and changes to the ordinance text. Mr. Christensen stated that the text changes have been distributed to various property owners and it has been posted on the City website. Mr. Christensen anticipates having this item presented to the Planning Commission in October, followed by presentation to the City Council. Mr. Christensen explained that the purpose of the mixed use zone is to encourage pedestrian oriented design, and to revitalize areas near transit stations. The General Plan recommends these changes and identifies the areas desirable for mixed use.

Kurtis Aoki asked why the property owners north of 4800 South wanted to be excluded from the mixed use area. Mr. Christensen responded that the property owners stated that the zone change would create restrictions on the type of business operations allowed. For example, auto repair would be non-conforming.

Tim Tingey stated that staff didn't make this boundary change solely because the property owners requested it. Mr. Tingey stated that one issue was the BRT connection that is being considered to run east and west. The excluded properties are not vital to the BRT route. Mr. Tingey stated that from a planning perspective, the proposed boundaries make sense.

Ray Christensen stated that existing non-conforming businesses within the mixed-use zone will be able to continue operating as legal non-conforming. If a business changes or redevelops it would then have to adhere to the mixed use ordinance. Mr. Christensen stated that some minor business expansion would be allowed if approved by the Board of Adjustment.

Jim Harland asked why approval would be sought by the Board of Adjustment. Mr. Christensen responded that there is some allowance under the non-conforming buildings and uses to construct additions, enlarge and move to a new location on the lot with Board of Adjustment approval.

Ray Christensen stated that the current ordinance has a 2,500 square foot limit for manufacturing businesses. Staff is recommending that this be changed to 12,000 square feet for business use. Mr. Christensen stated that there is no maximum for residential density, but it is proposed that residential uses on the ground floor be limited to 25% of the development. The purpose of this limitation is to encourage retail and commercial businesses to operate in the ground floor spaces. Mr. Christensen stated that future use planned outside of the mixed use boundary would include a Manufacturing General Transition Zone (M-G-T) to encourage compatible design with the mixed use. Staff is reviewing the possibility of changing some areas from M-G-C zone to M-G-T in order to define transition areas. Mr. Christensen stated that the future time frame would include another open house in April or May of 2010, a Planning Commission hearing in June or July of 2010, and then presentation of the zone change and amendments to the City Council in August or September of 2010.

Kurtis Aoki asked if any other cities have an M-G-T zone. Mr. Christensen replied that he is not aware of any other cities that have that zone. Mr. Christensen stated that in order to allow transition, it would not have all of the same standards as the mixed use zone. Mr. Aoki asked why there needs to be a transition zone. Mr. Christensen responded that the main purpose of the transition zone is to have a limitation on building size and uses. Tim Tingey stated that if mixed use is working and redevelopment is occurring then having a transition area will allow for property owners within the area to request rezoning of their property for mixed use in order to capitalize on that momentum. Mr. Aoki asked about the current zoning. Mr. Christensen stated that the majority of the area is currently zoned M-G-C. Tim Taylor commented that he likes the western boundary change and the area included there, and asked if storage facilities will be allowed in the mixed use zone. Mr. Christensen responded that inside storage will be allowed.

Jim Harland announced that next week is the League of Cities and Towns convention, and Thursday is planner's day. Mr. Harland stated that it would be a good training opportunity. Mr. Harland also announced that on October 22nd the Utah APA section is meeting in Ogden.

There were no other business items for discussion.

Meeting adjourned.

B. Tim Tingey
Director of Community & Economic Development